



CITY COUNCIL

Public Safety Committee

Monday, October 6, 2008

**Agenda
5:00 p.m.**

Committee Members: D. Sterner, Chair; S. Marmarou; M. Goodman-Hinnershitz

COMMITTEE OF THE WHOLE

5:00 pm

1. Housing Permit Update

I. CIP Amendment City Hall Security

5:30 pm

II. Daytime Curfew Ordinance Enforcement

6:00 p.m.

Potential conflict with extension to 3:30 p.m.

III. Review Graffiti Ordinance Amendment

6:30 pm

(Allowing citations to be issued to the minor and parent/guardian)

IV. Review Reports:

- Codes Enforcement
- Crime Stats (Police)
- Fire Report

It is possible that members of and possibly a quorum of members of other governmental bodies of the municipality may be in attendance at the above-stated meeting to gather information. No action will be taken by any governmental body at the above stated meeting other than the governmental body specifically referred to above in this notice.

Public Safety Goals

Goal 1: Coordination of Police, Codes and Zoning Services

Goal 2: Support Problem Oriented Policing

Goal 3: Surveillance Camera Project

Goal 4: Support re-establishment of Canine Unit

Goal 5: Support Consolidation of Fire Departments

Goal 6: Support Update of Emergency & Pandemic Plan (including NIMS Training for all required personnel)

Goal 7: Support Health and Safety Review Ordinances

Goal 8: Amend Disruptive Tenant Ordinance (to remove loop holes and inconsistencies)

Goal 9: Support Cops and Codes Sweeps

Goal 10: Support Implementation of Sidewalk Café and Sales Ordinances

BILL NO. _____ 2008
AN ORDINANCE

AN ORDINANCE AMENDING THE CITY OF READING CODE OF ORDINANCES CHAPTER 6, PART 7, SCHOOL TIME CURFEW, TO ADD A NEW SECTION PERTAINING TO PROHIBITED CONDUCT OF JUVENILES ON SCHOOL DAYS AND ADDING THIS NEW SECTION TO THE ENFORCEMENT PROCEDURE; CHANGING THE END TIMES FOR PROHIBITED CONDUCT AND DEFINING GRADE SCHOOL, AS ATTACHED IN EXHIBIT A.

Whereas, the City of Reading has an obligation to provide for the protection of juveniles from each other and other persons; for the protection of the general public; and for the reduction of the incidents of criminal activity.

Whereas, loitering around school buildings creates safety hazards for students, City residents and visitors; and

Whereas, the City of Reading City Council enacts this legislation to further prohibit juveniles from loitering in the vicinity of school buildings to protect students, residents and visitors against crime and undue annoyance.

NOW THEREFORE, THE CITY OF READING CITY COUNCIL HEREBY ORDAINS AS FOLLOWS:

SECTION 1. Amending the City of Reading Codified Ordinances Chapter 6, Conduct, Part 7, School Time Curfew, to protect the public safety, health and welfare of all in our community as attached in Exhibit A.

SECTION 2. This Ordinance will become effective in ten (10) days when approved in accordance with Section 221 of the City of Reading Home Rule Charter.

Enacted by Council _____, 2008

President of Council

Attest:

City Clerk

EXHIBIT A

PART 76 SCHOOL TIME CURFEW

§6-701. Background.

The City of Reading and community have legitimate concerns regarding the refusal or failure of juveniles to attend school as required by the Compulsory Attendance Statute of the Commonwealth, with evidence that juveniles who refuse to attend school are more likely to not complete elementary or secondary education and are more likely to engage in misconduct injurious to themselves or other persons or property.

(Ord. 13-2001, 6/11/2001, §1)

§6-702. Purpose.

The City of Reading has an obligation to provide for the protection of juveniles from each other and from other persons, for the enforcement of parental responsibility for acts of their children, for the protection of the general public, and for the reduction of the incidents of juvenile criminal activity. The City also desires to promote the safety and good order of the community by encouraging parental responsibility and helping to eradicate or minimize the occurrences of rowdiness, vandalism, harassment, graffiti, theft, drug dealing, drug use, and other behaviors of juveniles as well as the harm done by juveniles to the community.

(Ord. 13-2001, 6/11/2001, §2)

§6-703. Definitions.

ESTABLISHMENT - any privately owned place of business operated for a profit to which the public is invited including, but not limited to, any place of amusement or entertainment.

GRADE SCHOOL - any elementary or secondary institution.

GUARDIAN - a person who, under court order, is the guardian of a juvenile, or a public or private agency with which a juvenile has been placed by a court of competent jurisdiction.

HOMESCHOOL - applies to children legally authorized to participate in a Home Education Program conducted in compliance with §1327.1 of the Public School Code.

(Ord. 13-2001, 6/11/2001, §3)

JUVENILE - any unmarried person over 7 years of age and under 17 years of age or a person over 17 years of age and less than 18 years of age who is enrolled in or subject to compulsory education.

LOITERING - to physically be on the property of an establishment or public place.

OPERATOR - any individual, firm, association, partnership, corporation, or other entity, operating, managing or conducting any establishment. The term "operator" includes the members, owner or partners of an association, partnership or other similar entity and the officers of a corporation.

PARENT - a person who is the birth parent, step-parent or adoptive parent of a juvenile. As used herein, "parent" shall also include a court-appointed guardian or other person, 18 years of age or older, authorized by the parent, a court order, or by the court-appointed guardian to have the care and custody of the juvenile.

PUBLIC PLACE - any location to which the public or a substantial group of the public has access and includes, but is not limited to streets, sidewalks, the common areas of schools, parks, hospitals, apartment houses, office buildings, transport facilities, shopping centers, malls and other such common areas.

REMAIN - to fail to immediately leave specific premises when requested to do so by a police officer or the owner, operator or other person in control of the premises.

SCHOOL - any public, private; denominational, charter or parochial education institution that is licensed, or exempt from licensing, by the Commonwealth of Pennsylvania or any other state or government, including any alternative program of study, including a homeschool, or workstudy offered by such an institution and any degree granting institution of higher education as prescribed in the regulations of the Board of Education.

§6-704. Unlawful Activity.

1. It shall be unlawful for any juvenile who is subject to compulsory education to loiter, wander, or be in or upon the public street, road, alley, park, playground or other public place, or the premises of any establishment, vacant lot or any unsupervised place in the City of Reading from 8:30 a.m. through ~~3:10~~ **3:30 p.m.** on any day for which the school, at which such juvenile is enrolled, is in session, subject to §6-705.
2. It shall be unlawful for any juvenile who is subject to compulsory continuing/alterative education to loiter, wander or be in or upon a public street, road, alley, park, playground, or other public place or the premises of any establishment, vacant lot or any unsupervised place in the City of Reading from 8:30 a.m. through ~~3:10~~ **3:30 p.m.** p.m. on any day for which the school at which such juvenile is enrolled is in session, subject to §6-705.
3. It shall be unlawful for the parent(s) or guardian (s) of any juvenile to knowingly permit or allow the juvenile to remain in, loiter, wander, or be in or upon the public street, road, alley, park, playground or other public place or the premises of any establishment, vacant lot or any unsupervised place from 8:30 a.m. through ~~3:10~~ **3:30 p.m.** p.m. on any day for which the school, at which such juvenile is enrolled, is in session, subject to §6-705.
4. No operator of an establishment or the agents or employees thereof shall knowingly permit any juvenile to remain in or about any public place or any establishment between the hours of 8:30 a.m. and ~~3:10~~ **3:30 p.m.** p.m. during any day on which the school in which the juvenile is enrolled is in session.

(Ord. 13-2001, 6/11/2001, §4)

5. *It shall be unlawful for any juvenile to loiter within 1,000 feet of any grade school building from 8:00 a.m. through 3:30 p.m. on any day in which the school is in session, subject to §6-705 A - I.*

§6-705. Defenses.

It is a defense to prosecution under this Part:

- A. That the juvenile is accompanied by his or her parent(s), guardian(s), or other adult(s) who has the care or custody of the juvenile.
- B. That the juvenile is on an emergency errand (without any detour or stop) directed by his or her parent(s), guardians) or other adult(s) who has the care or custody of the juvenile.
- C. That the juvenile is going to or coming directly from, without detour or stop, with permission, his or her place of school or approved employment, which includes

vocational training.

D. That the juvenile is going to or coming directly from a medical appointment or an emergency.

E. That the juvenile has permission to leave the school campus for lunch or a school-related activity or has possession of a valid school-issued off-campus permit.

F. That the juvenile is going to or coming from a continuing/alternative education activity.

G. That the juvenile is attending an official school, religious or other recreational activity supervised by adults or sponsored by the City of Reading or other governmental entity, a civic organization, or another similar entity that takes responsibility for the juvenile and that the parent(s) or guardian (s) has given permission for the student to attend such activity.

H. That the juvenile is going to or returning from, without any detour or stop, of the foregoing in subsection (G).

I. That the juvenile is going to or coming from any government-sponsored activity.

J. That the compulsory education or continuing/alternative education to which the juvenile is subject is not in session.

(Ord. 13-2001, 6/11/2001, §5)

§6-706. Enforcement Procedure.

1. Upon a juvenile's failure to comply with §6-704 (1) (2) *or* (5) of this Part, a police officer shall issue a citation to the juvenile and transport the juvenile home or to the school from which the juvenile is absent. If cited, the juvenile and parent(s) or guardian(s) shall appear in district justice court. The parent(s) or guardian(s) shall be forwarded a copy of the citation of the juvenile, and said citation will be mailed via certified mail, return receipt requested, and will include a warning that the parent(s) is (are) responsible and liable as the juvenile's parent(s). Any and all records of such citations shall be maintained in the City's database. Each violation shall constitute a separate offense.

2. If the parent(s) or guardian(s) has (have) been warned pursuant to subsection (1) hereof, then the officer may issue a citation to the parent(s) or guardian(s) for every subsequent violation of this Part. Each violation shall constitute a separate offense.

3. Once a citation is issued, pursuant to subsection (2) hereof, each and every subsequent violation of this Part is cause for an officer to issue a citation to the parent(s) or guardian(s) of the juvenile.

4. If any operator of an establishment or any agents or employees of any operator fail to comply with the provisions of this Part, a police officer shall issue a citation for said violation. Each violation shall constitute a separate offense.

(Ord. 13-2001, 6/11/2001, §6)

§6-707. Penalties.

1. Any juvenile, parent(s) or guardian(s), individual(s), or operator(s) convicted of violating any Section of this Part shall be subject to the following:

A. **First Offense.** \$ 50.00, plus costs and performance of restorative or community service to be assigned by the Superintendent of Schools and/or school principal.

B. **Second Offense.** \$100.00, plus costs and performance of restorative or community service to be assigned by the Superintendent of Schools and principal.

2. Any juvenile, parent(s) or guardian(s), individual(s) or operator(s) convicted of violating any Section of this Part for a third and every subsequent offense, may be subject to a fine not less than \$300.00 or more than \$1,000.00, plus costs and performance of community service as set forth in subsection (1).

3. Any community service required will not exceed 40 hours in a month and will be completed within 30 days from the date of the violation; community service imposed on a juvenile will not be completed by the juvenile during his or her hours of school attendance or related employment

(Ord. 13-2001, 6/11/2001, §7)

§6-708. Delegation.

Appropriate City officials, including members of the Police Department, authorized members of the Reading School District, including truancy enforcement and school safety officers, Children Youth Service employees and juvenile probation officers are authorized and directed to take such actions as are necessary to effectuate this Part.

(Ord. 13-2001, 6/11/2001, §8)

PART 3

GRAFFITI

§6-301. Purpose.

Graffiti contributes to the deterioration of property values, unsightliness and general disorder in a community. Recognizing this community problem, the purpose of this Part is to promote safety and general welfare of the residents/citizens of the City by helping to create a graffiti free environment.

(Ord. 5-1998, 3/23/1998, §1; as amended by Ord. 30-2003, 9/22/2003, §1)

§6-302. Definitions.

DIRECTOR - the Director of the Department of Public Works.

GRAFFITI -

A. Any inscription, work, symbol, figure, making or design, including but not limited to, tags, throw-ups and pieces, that is marked, etched, scrawled, stained, drawn or painted, stuck on, or adhered to any surface on public or private property without the express permission of the owner or owner's agent of such property including, but not limited to, any wall, underpass, overpass, trestle, tree, sign, pole, playground apparatus, utility box, building, structure, fixture or other improvement whether permanent or temporary, regardless of the content or nature of the material that has been applied, and which is visible from any public property or the public right-of-way, or from any private property other than the property on which the graffiti exists.

B. Graffiti shall not be construed to apply to easily removable chalk markings on the public sidewalks and streets used in connection with traditional children's games.

GRAFFITI ABATEMENT COSTS AND EXPENSES - the costs and expenses of having the defaced property repaired or replaced when the City determines that removal of the graffiti would not [be] cost effective; and the law enforcement costs and expenses incurred in identifying and apprehending a responsible party; and the related administrative, overhead and incidental costs incurred in performing or causing the performance of the enforcement, abatement or collection procedures described in this Part and related court costs and attorneys fees.

GRAFFITI IMPLEMENT - any implement capable of marking a surface to create graffiti, including, but not limited to, aerosol or pressurized paint containers, markers, gum labels, paint brushes or etching tools capable of scarring glass, metal, concrete or wood.

GUM LABELS - any material such as, but not limited to, decals, stickers, posters or labels which contain a substance commonly known as adhesive or glue, which cannot be removed from the surface in an intact condition and with minimal efforts.

MARKER - any indelible or permanent marker or similar implement with a point, brush, applicator or other writing surface which at its broadest width is 3/8 of an inch or greater and contains ink that is not water soluble.

MINOR - any person under the age of 18 years.

PAINT STICK or GRAFFITI STICK - any device containing a solid form of paint, chalk, wax, epoxy, or other similar substances capable of being applied to a surface by pressure and upon application, leaving a visible mark and that is not water soluble.

PERSON - every natural person, firm, corporation, partnership, association or institution.

PIECES - forms of graffiti represented by detailed, multi-colored murals, ranging in size.

PRIVATE PROPERTY - any land and the improvements thereon owned by any person and includes front, side and rear yards, vacant lots, buildings and other structural improvements, walkways and alleyways and parking areas designed or used either wholly or in part for private residential, industrial or commercial purposes, whether inhabited or temporarily or continuously uninhabited or vacant, including any yard, grounds, walk, driveway, porch, steps, vestibule or mailbox belonging or appurtenant to such dwelling, house, building or structure.

PUBLIC OFFICER - any police officer or any public official authorized to enforce laws of the City of Reading as set forth in the Codified Ordinances.

TAGS - a form of graffiti represented by stylized signatures of a writer's chosen name.

THROWUPS - a form of graffiti represented by large names or figures written in a bubble style, often with an outline written in a different color than the interior of the letters.

(Ord. 5-1998, 3/23/1998, §1; as amended by Ord. 30-2003, 9/22/2003, §2)

§6-303.A. Prohibitions.

1. It shall be unlawful for any person to commit any overt act resulting in or attempting to result in an application of graffiti.
2. It shall be unlawful for any person to intentionally, maliciously or wantonly expose or tend to expose another to risk of violence, contempt or hatred on the basis of race, color, creed or religion by the use of what is commonly known as graffiti.
3. It shall be unlawful for any parent, legal guardian or other person having custody and care of any minor child under the age of 18 years to knowingly assist, aid, abet, allow, permit or encourage said minor to violate the provisions of this Part, as herein defined, either by words, overt act or by failing to act.
4. All persons directly or indirectly involved in acts of graffiti vandalism may be found to be equally responsible and guilty of the act, in addition to the individual who may personally deface the object or area, such as others in the group who knowingly make available the tools, writing materials, ladders, lookouts, materials or assistance, or who knowingly supplies funds to acquire such materials for such purposes.
5. Every person who owns, conducts, operates or manages a retail, commercial establishment selling aerosol containers of spray paint or broad-tipped indelible markers shall place a sign in clear public view at or near the display of such products stating:
GRAFFITI IS A CRIME. ANY PERSON DEFACING REAL OR
PERSONAL PROPERTY NOT HIS OR HER OWN WITH PAINT OR
ANY OTHER LIQUID OR DEVICE IS GUILTY OF A CRIME
PUNISHABLE BY A FINE OF UP TO \$1,000 OR A PRISON
SENTENCE.

6. It shall be unlawful for any person under the age of 18 to have in their possession any graffiti implement while on any public highway, street, alleyway, sidewalk, park, playground, swimming pool or other public place or property or on private property unless the owner of that property consented to the presence of the paint or marker, whether such person is or not in any automobile, vehicle or other means or method of conveyance.

7. It shall be unlawful for any person to have, in his or her possession, a graffiti implement while in any public park, playground, swimming pool, recreational facility (other than highway, street, alleyway or sidewalk) except authorized employees of the City of Reading or an individual or authorized employee of an individual or company under contract with the City of Reading.

8. It is unlawful for any person to have in his or her possession any graffiti implement on private property closed to the public without permission from the owner or his lawful agent.

(*Ord. 5-1998, 3/23/1998, §1; as amended by Ord. 30-2003, 9/22/2003, §3*)

§6-303.B. Exemptions.

This prohibition shall not apply to a child using paint or a marker while under the immediate supervision of their parent or legal guardian, a student under direct supervision of their teacher or an employee using paint or a marker at the direction and under the supervision of their employer. (*Ord. 5-1998, 3/23/1998; as added by Ord. 30-2003, 9/22/2003, §3*)

§6-304. Removal of Graffiti.

1. Wherever a Public officer becomes aware of the existence of graffiti on any property, structures or improvements within the City that is visible to the public, the Director, upon such discovery, shall give or cause to be given, notice to remove or effectively obscure such graffiti within 5 days from receipt of any notice given by the City, and will then inform the Director that such notice has been given. This notice shall include a description of the City of Reading Graffiti Program. This description shall include methods approved for graffiti removal that do not require the use of chemicals. The notice shall be given to the owner, agent or manager of said property, structure or improvement who shall:

A. Cause the graffiti to be removed or effectively obscured.

B. Provide written consent and waiver of liability to authorize the Director to remove or effectively obscure any graffiti at no cost to the property owner.

C. Have the graffiti removed by the City without the owner's consent, consistent with provisions of this Part.

2. The notice may be served by:

A. Handing the notice to the owner of the property in person.

B. Posting the notice on or near the front door of the property that is defaced with graffiti.

C. If the property defaced with the graffiti does not consist of a building, the notice shall be on a placard attached to a stake driven into the ground on the property. [*Ord. 30-2003*]

3. Where property defaced by graffiti is owned by a public entity other than the City, the Director shall cause removal of the graffiti only after securing the consent of an authorized representative of the public entity that has jurisdiction over the structure.

4. Whenever the City becomes aware or is notified and determines that graffiti is located on publicly or privately owned property viewable from a public or quasi-public place, the City shall be authorized to use public funds for the removal of the graffiti, or for the painting or repairing of

the graffiti, but shall not authorize or undertake to provide for the painting or repair of any more extensive an area than that where the graffiti is located, unless the Director of Public Works determines in writing that a more extensive area is required to be repainted or repaired in order to avoid an aesthetic disfigurement to the neighborhood or community, or unless the property owner or responsible party agrees to pay for the costs of repainting or repairing the more extensive area.

5. Prior to entering upon private property or property owned by a public entity other than the City for the purpose of graffiti removal the City shall attempt to secure the consent of the property owner or responsible party and a release of the City from liability for property damage or personal injury. If the property owner or responsible party fails to remove the offending graffiti within the time specified by this Chapter and the notice, or if the City has requested consent to remove or paint over the offending graffiti and the property owner or responsible party has refused consent for entry on terms acceptable to the City and consistent with the terms of this Section, the City shall commence to remove or repair the graffiti without the consent of the owner. [Ord. 30-2003]

(Ord. 5-1998, 3/23/1998, §1; as amended by Ord. 30-2003, 9/22/2003, §3)

§6-305. Graffiti Abatement Hearing.

At a hearing requested by the property owner, the owner shall be entitled to present evidence and argue that his or her property does not contain graffiti. The determination of the Director after the hearing shall be final and not appealable. After the hearing, if the Director determines that the property contains graffiti, the Director may order that the graffiti be abated.

(Ord. 5-1998, 3/23/1998, §1; as amended by Ord. 30-2003, 9/22/2003, §4)

§6-306. Anti-graffiti Trust Fund.

There is hereby created the City of Reading Anti-graffiti Trust Fund. Civil and criminal penalties assessed against violators of this Part and public and private sector contributions and grants to the City for graffiti abatement efforts shall be placed in the fund. The Director shall direct the expenditures of monies in the fund which shall be limited to the payment of the cost of removal of graffiti, the costs of administering this Part, public awareness programs and any such other public purpose as may be approved by City Council and the Mayor.

(Ord. 5-1998, 3/23/1998, §1; as amended by Ord. 30-2003, 9/22/2003, §4)

§6-307. Reward.

The Mayor or his designee, may grant awards up to the sum of \$200 for information leading to the arrest and/or conviction of any individual for violating provisions of this Part. Reward funds are to be paid from the Anti-graffiti Trust Fund. (Ord. 5-1998, 3/23/1998, §1; as amended by Ord. 30-2003, 9/22/2003, §4)

§6-308. Enforcement Procedure.

1. If the party cited for a violation of this Part is a minor/juvenile, a citation may be issued to both the minor/juvenile and the parent(s) and or guardian(s). If cited,

the minor/juvenile and parent(s) or guardian(s) shall appear in district justice court. The parent(s) or guardian(s) shall be forwarded a copy of the citation of the juvenile, and said citation will be mailed via certified mail, return receipt requested, and will include a warning that the parent(s) is (are) responsible and liable as the juvenile's parent(s). Any and all records of such citations shall be maintained in the City's database. Each violation shall constitute a separate offense.

2. If the parent(s) or guardian(s) has (have) been warned pursuant to subsection (1) hereof, then the officer may issue a citation to the parent(s) or guardian(s) for every subsequent violation of this Part. Each violation shall constitute a separate offense.

3. Once a citation is issued, pursuant to subsection (2) hereof, each and every subsequent violation of this Part is cause for an officer to issue a citation to the parent(s) or guardian(s) of the juvenile.

4. If any operator of an establishment or any agents or employees of any operator fail to comply with the provisions of this Part, a police officer shall issue a citation for said violation. Each violation shall constitute a separate offense.

§6-308-309. Penalties.

1. Any person, firm or corporation who shall violate §6-303, "Prohibitions" shall be, upon conviction thereof, sentenced to pay a fine of \$300 for the first offense and a fine of \$1,000 plus costs and, in default of payment of said fine and costs, to a term of imprisonment not to exceed 30 days for a second or subsequent offense.

2. In addition to any penalty in accordance with this Part, the defendant shall make restitution to the victim for damages or loss caused directly or indirectly by the defendant's offense in reasonable amount or manner to be determined by the court.

3. In addition to such penalty, the court may, in imposing sentence, order the defendant to perform community service no less than 50 hours and not to exceed 100 hours. (Ord. 5-1998, 3/23/1998, §1; as amended by Ord. 14-2001, 5/29/2001; and by Ord. 30-2003, 9/22/2003, §4)